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**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

**GUIRGUIS, a.k.a. GEORGE,  
EL-SHAWARY, a Washington resident.**

**Plaintiff,**

V.

U.S. BANK NATIONAL ASSOCIATION as  
Trustee for GSR MORTGAGE LOAN  
TRUST 2006-4F MORTGAGE PASS-  
THROUGH CERTIFICATE SERIES 2006-  
4F; NATIONSTAR MORTGAGE L.L.C.  
d/b/a "MR. COOPER", a foreign company;  
XOME INC., a foreign company; and  
QUALITY LOAN SERVICE  
CORPORATION OF WASHINGTON solely

No. 2:18-cv-01456-JCC

## MOTION TO EXTEND DISPOSITIVE MOTIONS DEADLINE

**NOTE ON MOTION CALENDAR:  
May 1, 2020**

MOTION TO EXTEND DISPOSITIVE MOTIONS  
DEADLINE - 1  
Case No. 2:18-cv-01456-JCC  
S2013174.DOC



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1 as a nominal party and Trustee under  
 2 RCW 61.24.130 et seq.,

3 Defendants.

4  
 5 Defendants U.S. Bank, National Association, as Trustee for the GSR Mortgage Loan  
 6 Trust 2006-4F Mortgage Pass-Through Certificates Series 2006-4F, Nationstar Mortgage LLC  
 7 d/b/a Mr. Cooper and Xome, Inc. ("Moving Defendants") move to extend the dispositive  
 8 motions deadline from April 23, 2020 to 90 days before the trial date, as follows:

9                   **I. INTRODUCTION**

10                  Trial has been vacated pending further order of the Court due to the pandemic, under  
 11 General Order 07-20. Since Moving Defendants have a pending Motion for Judgment on the  
 12 Pleadings (ECF 36), and Plaintiff Guirguis a/k/a George El-Shawary has a pending Motion for  
 13 Leave to Amend (ECF 40), Moving Defendants respectfully request the Court continue the  
 14 dispositive motions deadline to 90 days before the trial date, which date Moving Defendants  
 15 understand will be re-set in a further order at a later date.

16                   **II. ARGUMENT**

17                  A scheduling order "may be modified only for good cause and with the judge's  
 18 consent. Fed. R. Civ. P. 16(b) "primarily considers the diligence of the party seeking the  
 19 extension." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).  
 20 Although "prejudice to the party opposing the modification [of a scheduling order] might  
 21 supply additional reasons to deny a motion, the focus . . . is upon the moving party's reasons  
 22 for seeking modification." *Id.* The standard for good cause is not meant to require perfection  
 23 of parties and counsel, but rather to prevent "[d]isregard of the order [that] would undermine  
 24 the court's ability to control its docket, disrupt the agreed-upon course of litigation, and reward  
 25

1 the indolent and cavalier." *Id.* at 610.

2 Good cause exists to extend the dispositive motions deadline to 90 days before trial.  
 3 *First*, Moving Defendants moved for judgment on the pleadings last November. (ECF 36.)  
 4 The motion has been fully briefed since December 13, 2019. (See ECF 38.) If the Court  
 5 grants this Motion (and denies leave to amend), the parties' summary judgment briefing will  
 6 be streamlined and necessarily address fewer claims.  
 7

8 *Second*, Mr. El-Shawary moved for leave to amend in February. (ECF 41.) The  
 9 Motion remains pending. If granted, a new defendant -- McCarthy & Holthus, LLP -- will be  
 10 joined, likely resulting in a new discovery schedule, and Moving Defendants will be required  
 11 to answer and file dispositive motions related to the new complaint.  
 12

13 *Third*, a jury trial in this matter was set to begin on June 22, 2020 (ECF 32), but the  
 14 trial has been continued pending further order of the Court due to the pandemic, under General  
 15 Order No. 07-20. Extending the dispositive motions deadline will allow the Court additional  
 16 time to rule on the pending motions, and allow the parties to defer litigation costs until it is  
 17 clear what claims will proceed.  
 18

19 And *fourth*, the extension will not prejudice Mr. El-Shawary in any way. As set forth  
 20 *supra*, the trial has been continued and a new date has not been set. And, Mr. El-Shawary and  
 21 Moving Defendants have been involved in ongoing settlement discussions both related to this  
 22 case and related to an ongoing mediation under the Washington Foreclosure Fairness Act. The  
 23 requested extension will allow the parties additional time to attempt to consummate a  
 24 settlement before incurring dispositive-motion-related costs.  
 25

26 Undersigned counsel certifies that he emailed opposing counsel prior to filing this  
 27 Motion requesting that he stipulate to this Motion, but counsel has not agreed to stipulate.  
 28

1                   **III. CONCLUSION**

2                   For the foregoing reasons, moving defendants respectfully request the Court extend  
3 the dispositive motions deadline to 90 days before the trial date, which Moving Defendants  
4 understand will be re-set by further order of the Court.  
5

6                   DATED this 23<sup>rd</sup> day of April, 2020.

7                   WITHERSPOON · KELLEY  
8

9                   By: s/ Christopher G. Varallo

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27                   *Attorneys for Defendants U.S. Bank National  
28                   Association as Trustee for GSR Mortgage  
                 Loan Trust 2006-4F Mortgage Passthrough  
                 Certificate Series 2006-4F; Nationstar  
                 Mortgage LLC, d/b/a "Mr. Cooper"  
                 and Xome Inc.*

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of April, 2020,

1. I caused to be electronically filed the foregoing MOTION TO EXTEND DISPOSITIVE MOTIONS DEADLINE with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

**Arthur E. Ortiz**  
**arthur@aeolegal.com**

2. I hereby certify that I have caused to be mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants at the addresses listed below: **None**.

3. I hereby certify that I have mailed by United States Postal Service the foregoing document to the following CM/ECF participants at the address listed below: **None**.

4. I hereby certify that I have hand-delivered the foregoing document to the following participants at the addresses listed below: **None**.

*s/ Christopher G. Varallo*

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